## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Robert K. Evans et al.	
Serial No. Filed: For: ADEN	to be assigned  OVIRUS FORMULATIONS	Art Unit: <u>1648</u> Examiner: <u>Foley, Shanon A.</u>
Commissione	for Patents	

Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

## INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97

Sir:

- 1. In compliance with 37 C.F.R. 1.97, submitted on the attached form herewith is a list of patents, publications or other information which are requested to be made of record in this application. This Information Disclosure Statement is not an admission that any patent, publication or other information referred to herein is "prior art" for this invention. In accordance with 37 C.F.R. 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. 1.56(b).
- 2. In accordance with 37 C.F.R. 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made.
- 3. Applicants respectfully request that the Examiner initial the attached form after reviewing the pertinence of each reference.
- 4. Pursuant to the waiver by the Office of the requirement under 37 CFR 1.98 (a)(2)(i) dated July 11, 2003, if the filing date of this application is after June 30, 2003, copies of each cited U.S. patent and each U.S. patent application publication are not enclosed herewith.

EXPRESS MAIL CERTIFICATE
DATE OF DEPOSIT March 2, 2004
EVERES MAIL NO EV 321 4885 1205
THEREBY CERTIFY THAT THIS CURRESPONDENCE 13
BEING DEPOSITED WITH THE UNITED STATES POSTAL
SERVICE AS EXPRESS MAIL "POST OFFICE TO ADDRESSEE"
ON THE ABOVE DATE IN AN ENVELOPE ADDRESSED 10
COMMISSIONER FOR PATENTS, P.O. BOX 1450.
ALEXANDRIA, VIRGINIA \$2313-1450.
MAILED BY ON ONE Chepus
DATE moven 2 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

MERCK & CO., INC.

## **INFORMATION DISCLOSURE STATEMENT**

5. Pursuant to 37 C.F.R. 1.98(d), copies of references listed on the attached form that were submitted to or cited
by the Office in a related application upon which the instant application relies for an earlier filing date under 35 U.S.C. 120
are not enclosed. Related application(s) in which references were submitted to or cited by the Office are as follows:

	RELATED APPLICATION				
U. S. SERIAL NUMBER	FILING DATE	MERCK CASE			

If this is inconvenient, additional copies will be submitted upon request.

6. In accordance with 37 C.F.R. 1.97, (check one)
the attached information is filed within three months of the filing date of the captioned case.
the attached information is filed more than three months after the filing date but prior to the mailing of a first Office Action on the merits.
the attached information is being filed more than three months after the filing date and after the mailing of a first Office Action on the merits, but before the mailing date of a Final Action or Notice of Allowance. The enclosed authorization is therefore given to charge Deposit Account No. 13-2755 for the fee required under 37 C.F.R. 1.17(p).
the undersigned certifies that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement.
the undersigned certifies that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated under 37 C.F.R. 1.56(c) more than three months prior to the filing of this Statement.

Respectfully submitted,

By: J. Mark Hand

Attorney For Applicant(s)

Reg. No. <u>36,545</u>

MERCK & CO., INC. Patent Dept., RY60-30

P.O. Box 2000

Rahway, N.J. 07065-0907

(732)594-3905

Date: March 2, 20

Substitute for form 1449A/PTO				COMPLETE IF KNOWN			
	NFORMATION	DIS	CLOSURE	Application Number	To be assigned		
				Filing Date			
3	STATEMENT BY APPLICANT			First Named Inventor	Robert K. Evans		
			,	Group Art Unit	1648		
	(use as many sheets	as n	necessary)	Examiner Name	Foley, Shanon A.		
Sheet	1	of	2	Attorney Docket Number	20634YCA		

	U.S. PATENT DOCUMENTS							
Examiner Initials*	Cite No.	U.S. Patent Document Number	Kind Code (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY			
	A	5,932,223		Carl J. Burke et al.	08/03/1999			
	В	6,225,289B1		Imre Kovesdi et al.	05/01/2001			
	С	6,514,943B2		Imre Kovesdi et al.	02/04/2003			
	D	6,039,958		Kuniaki Koyama et al.	03/21/2000			
	Е	6,689,600B1		Zheng Wu and Shuyuan Zhang	02/10/2004			
	_							

	FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No.	Office	Foreign Patent Document Number	Kind Code (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY		
	F	PCT	WO 99/45841		CardioSistemas Comercial E Industrial	09/16/1999		
	G	PCT	WO 98/02522		Transgene S.A.	01/22/1998		
	Н	PCT	WO 00/45841		Merck & Co., Inc.	08/10/2000		
	I	PCT	WO 99/41416		Schering Corporation	08/19/1999		

Examiner Signature Date Considered

Substitute for form 1449B/PTO INFORMATION DISCLOSURE				COMPLETE IF KNOWN			
				Application Number	To be assigned		
c	TATEMENT DV	A D	DITCANT	Filing Date			
	STATEMENT BY APPLICANT			First Named Inventor	Robert K. Evans		
			,	Group Art Unit	1648		
(use as many sheets as necessary)			ecessary)	Examiner Name	Foley, Shanon A.		
Sheet	2	of	2	Attorney Docket Number	20634YCA		

	NON PATENT LITERATURE DOCUMENTS					
Examiner Initials*	Cite No.	Include name of the author, title, date, page(s), volume-issue number(s) and place of publication.				
	J	Ermilov et al. 'Culture media and their components difer in their ability to scavenge reactive oxygen species in the plasmid relaxation assay', Fertility and Sterility, Vol. 72, No. 1, pp 154-156, July 1999				
	K	Chanock et al. 'Immunization by Selective Infection with Type 4 Adenovirus Grown in Human Diploid Tissue Culture', J. Am. Med. Assoc. 195, No. 6, pp 151-158 Feb 7, 1966				
	L	Griffin et al. 'Live and Inactivated Adenovirus Vaccines', Arch. Intern. Med. 125: pp 981-986, June 1970				
	M	Top et al. 'Immunization with Live Types 7 and 4 Adenovirus Vaccines. I. Safety, Infectivity, Antigenicity, and Potency of Adenovirus Type 7 Vaccine in Humans', J. Infec. Dis. 124, No. 2, pp 148-154, Aug 1971				
	N	Nyberg-Hoffman et al. 'Instability of adenoviral vectors during transport and its implication for clinical studies', Nature Medicine 5 (8): pp 955-956, August 1999				
	0	Croyle et al. 'Factors that Influence Stability of Recombinant Adenoviral Preparations for Human Gene Therapy', Pharm. Dev. and Tech. 3(3): pp 373-383, 1998				

Examiner Signature	Date Considered	

<sup>\*</sup>Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.